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In re Application of
BEITELMAN et al.
Application No.: 10/524,873
PCT No.: PCT/CA03/01209
Int. Filing Date: 19 August 2003
Priority Date: 20 August 2002
Attorney's Docket No.: 2127-53 MIS/jb
For: COOLING ELECTROMAGNETIC STIRRERS

DECISION ON

RENEWED PETITION

UNDER 37 CFR 1.181

This is in response to applicant's "Request for Reconsideration of Dismissal of Renewed Petition under 37 CFR 1.181" requesting withdrawal of a holding of abandonment based upon a failure to receive an Office Action filed in the United States Patent and Trademark Office (USPTO) on 29 January 2008 alleging that applicant did not receive the Notification of Missing Requirements mailed on 15 September 2005. This is also responsive to applicant's request for status filed on 28 January 2009.

BACKGROUND

The procedural history of this application was set forth in the decisions mailed on 11 June 2007 and 29 November 2007.

On 29 January 2008, applicant filed the instant request for reconsideration along with a copy of the docket record for all replies due in the USPTO on 15 November 2005.

DISCUSSION

As previously stated in the decision mailed on 11 June 2007, in order to establish that papers were not received, a petition under 37 CFR 1.181 with a proper showing is required. As set forth in the Official Gazette at 1156 OG 53, the petition must include the following: (1) a statement from the practitioner stating that the Office action was not received by the practitioner; (2) the practitioner's statement must attest to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and (3) a copy of the docket record where the non-received Office action would have been entered had it been received must be attached to and referenced in practitioner's statement. *See MPEP 711.03(c) I. A.* No petition fee is required.

Practitioner has previously satisfied Items 1 and 2. Item (3) is now satisfied. The Office generally requires, as the appropriate docket record for establishing nonreceipt of an Office communication, a record of all USPTO responses dues on the due date for reply to the communication at issue. Petitioner has provided the docket record for all replies due in the USPTO on 15 November 2005. *See MPEP 711.03(c)IA.*

Thus, applicant has provided the proper showing necessary to withdraw the holding of abandonment and the petition may be properly granted at this time.

CONCLUSION

Applicant's petition under 37 CFR 1.181 to request to withdraw holding of abandonment is **GRANTED**.

The application will be forwarded to the United States Designated/Elected Office for further processing including issuance of a Notification of Missing Requirements.



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